

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

KEMYAH WASHINGTON

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CRIMINAL NO. 1:CR-07-401

(Judge Rambo)

MEMORANDUM

Before the court is a document from Defendant Kemyah Washington entitled “Memorandum of Law Brief in the Nature of Actual Innocence Pursuant to 28 U.S.C. § 2255” (doc. 85). No motion to this memorandum has been filed to which this memorandum can support.

On December 24, 2008, Washington filed a previous motion pursuant to 28 U.S.C. § 2255 (doc. 53). This motion was withdrawn by order of April 15, 2010 (doc. 60) pursuant to Washington’s Notice of Election (doc.59). On July 30, 2010, Washington filed another motion pursuant to 28 U.S.C. § 2255 (doc. 62). This motion was denied on December 21, 2010 (doc. 72). A notice of appeal was filed on January 20, 2011. On May 9, 2011, the Third Circuit Court of Appeals denied Washington’s request for a certificate of appealability from this court’s denial of his § 2255 motion (doc. 80).

Washington’s instant memorandum does not support any pending 28 U.S.C. § 2255 motion. In fact, this court cannot deem the instant filing to be a combined motion and brief pursuant to 28 U.S.C. § 2255 as this would constitute a second or successive motion. A second or successive motion pursuant to 28 U.S.C. § 2255 must be certified by the court of appeals. *See* 28 U.S.C. § 2255(h).

This court is without jurisdiction to entertain the instant filing. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: May 8, 2012.

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ORDER

For the reasons set forth in the accompanying memorandum, **IT IS
HEREBY ORDERED THAT** Washington's memorandum filed May 7, 2012 (doc.
85) is dismissed for lack of jurisdiction by this court to entertain the memorandum.

- 1) This court declines to issue a certificate of appealability.
- 2) The clerk of court shall close the file.

s/Sylvia H. Rambo
United States District Judge

Dated: May 8, 2012.